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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 **-oOo-**

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 OMAR QAZI,

14 Defendant.

2:15-CR-00014-APG-VCF

GOVERNMENT'S SUPPLEMENTAL  
RESPONSE TO DEFENDANT'S MOTION  
TO RECONSIDER  
(Doc. #289)

15 **CERTIFICATION**

16 Pursuant to LCR 12-1, undersigned counsel hereby certifies that this response is filed in a  
17 timely manner.

18 COMES NOW the United States of America, by and through STEVEN MYHRE, Acting  
19 United States Attorney, and ALEXANDRA MICHAEL, Assistant United States Attorney, and  
20 submits this Supplemental Response to Defendant's Motion to Reconsider and Request for  
21 Evidentiary Detention Hearing by OMAR QAZI (hereinafter "the Defendant"), *pro se*, Doc. #289,  
22 respectfully requesting the Court deny the Defendant's Motion.

23 **PROCEDURAL HISTORY**

24 On March 24, 2017, Magistrate Judge Leen held a Motion Hearing as to Defendant's Motion

1 to Reconsider, Dkt. #289, and Defendant's Motion for an Evidentiary Detention Hearing, Dkt. #290.  
 2 These Motions were referred for a hearing from the District Judge Gordon. The government would  
 3 note that the defendant has had at least two prior hearings relating to detention, one on February 24,  
 4 2015 in front of Magistrate Judge Leen, see Dkt. #13, where the defendant through defense counsel  
 5 submitted to detention, Id. and Dkt. #14, and second, on May 26, 2016 in front of District Judge  
 6 Gordon, see Dkt. #182, where the defendant was remanded to custody after the hearing, Id. The  
 7 government would also note that to date, the defendant either through defense counsel or *pro se* has  
 8 filed approximately sixty-five (65) motions for the Court's consideration.<sup>1</sup>

9       On January 20, 2015 a federal grand jury returned an indictment charged the defendant with  
 10 one count of Felon in Possession of a Firearm in violation of 18 UCS § 922(g)(1) and 924(a)(2).  
 11 Dkt. #1. On February 24, 2015 the defendant appeared for his initial appearance and arraignment  
 12 and plea.<sup>2</sup> Dkts. #13 &14. On February 24, 2015 the defendant was ordered detained by Magistrate  
 13 Judge Leen. Id. On April 15, 2015 the parties filed a stipulation to continue trial and the Court  
 14 granted the stipulation deeming the continuance excludable under the Speedy Trial Act and excluded  
 15 the time. Dkts. #16 & 17.<sup>3</sup> Trial was re-set for August 10, 2015. Dkt. #17. On May 27, 2015  
 16 defendant filed a Motion to Suppress. Dkt. #18. On June 24, 2015, Magistrate Judge Ferenbach  
 17 issued an R&R denying defendant's Motion to Suppress. Dkt. #23. On July 24, 2015 defendant  
 18 filed two Motions, one requesting the Court to Conduct a Faretta Hearing. Dkts. #27 & 28. On  
 19 August 4, 2015 the government filed a motion to continue trial given there was an outstanding  
 20 Motion to Suppress. Dkt. #31. On August 5, 2015, at calendar call, District Judge Gordon adopted  
 21 the R&R denying Defendant's Motion to Suppress. On August 5, 2015 District Judge Gordon

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22       <sup>1</sup> This estimate does not include Notices, Supplements or Objections.

23       <sup>2</sup> Commencement of the seventy (70) day period under The Speedy Trial Act (18 USC § 3161(c)(1)).

24       <sup>3</sup> Time from when the defendant initially appeared in District Court on this matter until the first stipulation is fifty (50) days.

1 continued trial pursuant to 18 USC § 1361(h)(7). Dkt. #33. On August 6, 2015, defendant is  
2 granted the right to represent himself and trial is continued until September 28, 2015 and the  
3 continuance is deemed excludable under the Speedy Trial Act and the time is excluded by District  
4 Judge Gordon. Dkt. #35. On August 12, 2015 the defendant files eight (8) pro se Motions. See  
5 Dkts. #37-44. The defendant files three (3) more pro se Motions on August 17, 2015. See Dkts.  
6 #45-47. On August 26, 2015 the defendant files four (4) more pro se Motions. See Dkts. #48-51.  
7 On September 14, 2015 the defendant files three (3) pro se Motions. See Dkts. #19-21. On  
8 September 17, 2015 the defendant files four (4) pro se Motions. One of the Motions sought  
9 reasonable time to prepare a defense. Dkt. #68. On September 21, 2015 the parties filed a  
10 stipulation to continue trial and on September 22, 2015 the Court granted the stipulation deeming the  
11 continuance excludable under the Speedy Trial Act and excluded the time. Dkts. #73 & 75. Trial  
12 was re-set for November 30, 2015. Dkt. #75. On October 26, 2015 the defendant filed four (4) pro  
13 se Motions. See Dkts. #86-88. On November 5, 2015 the defendant filed two (2) pro se Motions.  
14 See Dkts. #91 & #92. On November 10, 2015, the government filed a motion to continue trial based  
15 on the unavailability of an essential witness. Dkt. #93. At this time there were at least five (5) of  
16 defendant's Motions pending (see Dkts. #26 – 29 and #30-31) along with at least five (5) of  
17 defendant's Objections to findings made by Magistrate Judge Ferenbach pending (see Dkts. 54, 60,  
18 76, 69, and 90). On November 11, 2015, District Judge Gordon Court granted the motion to  
19 continue based on an essential government witness being unavailable and deemed the continuance  
20 excludable under the Speedy Trial Act and excluded the time. See 18 section 3161(h)(3)(A) and  
21 Dkt. #96. Trail was re-set for April 4, 2016. Id. On November 17, 2015, November 30, 2015, and  
22 December 4, 2015, the defendant filed a pro se Motions. See Dkts. #99, 101, 103, and 107. On  
23 December 21, 2015 the defendant filed two (2) pro se Motions. See Dkts. #112 & 113. On  
24

1 December 31, 2015 the defendant files two (20 pro se Motions. See Dkts. #115 & 116. On January  
2 13, 2016, January 19, 2016, January 26, 2016 and January 29, 2016 the defendant filed a pro se  
3 Motions. See Dkts. #121, 124, 128, and 129. On March 3, 2016, and March 14, 2016, the defendant  
4 filed pro se Motions, one of which was a request for additional time to respond to Government's  
5 Motion to strike defendant's Second Motion to Suppress. See Dkts. #154 & 162. On March 15,  
6 2016 the defendant filed a pro se Motion requesting appointment of counsel. See Dkt. #161. On  
7 March 18, 2016 the parties filed a stipulation to continue trial and on March 22, 2016 District Judge  
8 Gordon granted the stipulation and deemed the continuance excludable under the Speedy Trial Act  
9 and excluded the time. See Dkts. #167 &169. Trial was re-set for July 25, 2016. Dkt. #169. On  
10 March 23, 2016, defendant's Motion for appointment of counsel was granted and Jennifer Waldo,  
11 Esq. was appointed as CJA counsel for defendant. Dkts. #161 & 170. On May 26, 2016 the  
12 defendant appeared for a hearing regarding detention in front of District Judge Gordon. Dkt. #182.  
13 The Court reviewed the relevant filings, heard arguments from both parties and reviewed an updated  
14 pre-trial services report and ultimately the defendant was remanded to custody. See Dkt. #182. On  
15 June 30, 2016, defendant, through defense counsel, filed a Motion to Suppress. Dkt. #192. On July  
16 5, 2016, the parties filed a stipulation and the Court granted the stipulation deeming the continuance  
17 excludable under the Speedy Trial Act and excluded the time. Dkts. #193 & 194. Trial was re-set  
18 for October 17, 2016. Dkt. #194. On August 3, 2016, Magistrate Judge Ferenbach held and  
19 evidentiary hearing on Defendant's Motion to Suppress. Dkt. #198. On August 4, 2016, Magistrate  
20 Judge Ferenbach issued an R&R in part denying and in part granting Defendant's Motion to  
21 Suppress. Dkt. #199. On September 20, 2016 the defendant filed Motions requesting the Court  
22 conduct a Faretta hearing and permit the defendant to proceed pro se. On September 27, 2016  
23 magistrate Judge Ferenbach granted the defendant's request to proceed pro se. Dkt. #208. On  
24

1 October 6, 2016 defendant filed two pro se Motions, one of which was a request to extend the  
2 Motion deadline. See Dkts. #210 & 212. On October 10, 2016 the defendant filed a pro se Motion.  
3 Dkt. #211. On October 11, 2016, District Judge Gordon granted defendant's Motion to extend the  
4 Motions deadline (new deadline is October 25, 2016) and the parties stipulate to continue trial. Dkt.  
5 #213. Trial is continued pursuant to 18 USC § 3161(h)(7)(A). Id. Trial was re-set for January 9,  
6 2017. Id. On October 21, 2016 the defendant files two (2) pro se Motions. See Dkts. #219 & 222.  
7 On October 25, 2016 the defendant files a pro se Motion. Dkt. #231. On October 26, 2016 the  
8 defendant files two (2) pro se Motions. See Dkts. #229 & 230. On November 29, 2016 defendant  
9 files two pro se Motions, one was for an extension of time. Dkt. #246 & 247. On December 1, 2016  
10 the government filed a Motion to continue trial. Dkt. #245. On December 6, 2016, the defendant  
11 files two (2) pro se Motions. Dkt. #249 & 250. On December 16, 2016, District Judge Gordon  
12 holds a hearing where a number of outstanding Motions are resolved, the government withdraws its  
13 Motion to continue trial, the defendant indicates he does not waive his right to a speedy trial, and the  
14 Court notes trial will commence as scheduled on January 9, 2017. Dkt. #268. At that time at least  
15 two evidentiary issues were outstanding: the R&R in part denying and in part granting Defendant's  
16 Motion to Suppress and Defendant's Motion in Limine. Dkts. #231 & 199. On December 30, 2016  
17 the defendant pro se filed a notice of expert testimony/request for DNA case file. Dkt. #274. On  
18 January 3, 2017, District Judge Gordon held calendar call where he resolved a number of Motions to  
19 include adopting the R&R in part denying and in part granting Defendant's Motion to Suppress and  
20 granted Defendant's Motion in Limine. Dkt. #281. District Judge Gordon continued calendar call  
21 until January 4, 2017. Id. On January 4, 2017 calendar call continued and the government notes its  
22 intent to file an appeal regarding the Court's rulings on Defendant's Motion to Suppress and  
23 Defendant's Motion in Limine. Dkt. #285. The government also objected to the timeliness and  
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1 sufficiency of defendant's expert notice. Id. District Judge Gordon continued calendar call until  
2 January 5, 2017. Id. On January 4, 2017 the government filed a Notice of Appeal and the appeal  
3 was given USCA Case Number 17-10004. Dkts. #282 & 287. On January 5, 2017 calendar call  
4 continued and District Judge Gordon, pursuant to Federal Rules of Appellate Procedure 4(b)(5)  
5 determined trial would be postponed. Dkt. #288. District Judge Gordon determined that upon the  
6 Ninth Circuit issuing its decision the court will then issue a new order regarding trial. Id. On  
7 January 23, 2017 defendant filed two (2) pro se Motions. See Dkts. #290 & 291. On February 16,  
8 2016 defendant filed two (2) pro se Motions. See Dkts. #297 & 298. On March 24, 2017,  
9 Magistrate Judge Leen held a Motion Hearing as to Defendant's Motion to Reconsider, Dkt. #289,  
10 and Defendant's Motion for an Evidentiary Detention Hearing, Dkt. #290. As a result of that  
11 hearing, Magistrate Judge Leen permitted the government to file supplemental briefing on the issues  
12 of: (1) a potential due process violation in terms of defendant's continued detention and (2) the  
13 defendant's potential custodial sentence for this case.

14 **ARGUMENT**

15 **DEFENDANT'S DUE PROCESS RIGHTS HAVE NOT BEEN VIOLATED BY HIS**  
16 **CONTINUED PRETRIAL DETENTION**

17 In support of his argument, defendant lists out the government's Motions to continue trial.  
18 See Dkts. #31, 93 and 245. The government submits the first Motion was deemed moot at calendar  
19 call the following day when the Court continued trial based on defendant's pending Motion  
20 requesting to represent himself. The government's Motion did not result in the trial being continued  
21 or delayed. The government's second Motion was based on the unavailability of an essential  
22 witness, the government's DNA expert. As noted above, at the same time this Motion was filed, the  
23 court had at least ten (10) matters pending. The government submits the defendant does not  
24 appreciate the significant effect his extensive Motions litigation has on the Court's and the

1 progression of the case. The excludability of the pretrial motion delay has been described as  
2 “automatic”. In *United States v. Tinklenberg*, 131 S. Ct. 2007 (2011), the Court held that pretrial  
3 motion delay “does not contain a causation requirement.” Id. at 2010-2011. A pretrial motion  
4 generates excludable delay “irrespective of whether it actually causes, or is expected to cause delay  
5 in starting a trial.” Id. at 2011. Under The Speedy Trial Act, 18 USC 3161(h)(1)(D), delay resulting  
6 from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or  
7 other prompt disposition of, such motion is excluded. The government submits this continuance and  
8 the timeframe from November 10, 2015 until April 4, 2015 was deemed excludable by the Court and  
9 was not improperly motivated by the government nor was the delay solely based on the government.  
10 Defendant continued to file substantive Motions during this timeframe. The government’s third  
11 Motion to continue the trial was shortly thereafter withdrawn at calendar call and did not result in  
12 the trial date being continued or delayed.

13 Next defendant makes argument regarding the validity of the government’s appeal. The  
14 government submits its appeal was taken in a timely manner, one day after District Judge Gordon’s  
15 decision, on an issue that has been highly contested throughout this district for the past year. In this  
16 case, defendant made an inculpatory statement after being provided *Miranda* warnings virtually  
17 identical to the Supreme Court’s articulation in *Miranda v. Arizona* of the required warning. The  
18 Ninth circuit has explicitly stated that a “verbatim reading would, in all instances, preclude claims  
19 such as [the Defendant’s]. *See Noti*, 731 F.2d 610, 615 (9th Cir. 1984). Additionally, the  
20 government submits the reasoning and rationale in the Ninth Circuit’s recent decision in *United*  
21 *States v. Loucious*, 16-10121 further supports the government’s position. The government appealed  
22 pursuant to 18 USC § 3731. Pursuant to 18 USC § 3161(h)(1)(C) any delay resulting from any  
23 interlocutory appeal is excluded.

1       Defendant next brings up the issue of weight of the evidence. The government submits that  
2 18 USC § 3143(c) allows a court to consider release or detention of a defendant pending appeal by  
3 the government. The statute provides:

4       The judicial officer shall treat a defendant in a case in which an appeal has been taken by the  
5 Untied States under section 3731 of this title, in accordance with section 3142 of this title  
unless the defendant is otherwise subject to a release or detention order.

6 For purposes of determining detention under 18 USC 3142(e)(1) the judicial officer shall consider  
7 factors listed under 18 USC 3142(g) which includes (2) the weight of the evidence against the  
8 person. Defendant argues that the Court should look at the weight of the evidence without the  
9 inculpatory statement given it was suppressed. The government disagrees. The Court should  
10 consider said suppressed evidence pursuant to the “cost-benefit analysis” set forth in *United Sates v.*  
11 *Leon*, 468 U.S. 897, 907 (1984). In *Leon*, the Supreme Court concluded the exclusionary rule did  
12 not apply automatically to exclude evidence for all purposes. *See United States v. Jay*, 261  
13 F.Supp.2d 1235 (D. Oregon 2003). The Ninth Circuit has permitted suppressed evidence to be  
14 presented at sentencing and revocation hearings. *See United States v. Kim*, 25 F.3d 1426 (9th Cir.  
15 1994) and *United States v. Hebert*, 201 F.3d 1103 (9th Cir. 2000). Here, defendant admitted post  
16 Miranda warnings that he possessed the firearm that was found in the car he was driving.<sup>4</sup> Therefore,  
17 defendant’s statement should be considered for purposes of evaluating the weight of the evidence.

18       Next defendant argues substantive due process requires that he be released from pre-trial  
19 detention. The government submits while the defendant has been in federal custody since February  
20 24, 2015 he has been in front of both Magistrate Judge Leen and District Judge Gordon for detention  
21 hearings. Defendant has also submitted numerous filings regarding his detention which have been  
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23       <sup>4</sup> Defendant admitted to law enforcement post *Miranda* that he possessed the firearm that was found  
24 in the car.

1 considered by the Court. Defendant cites to a number of cases that are distinguishable from the  
2 instant case. The cases presented by defendant deal with situations where individuals were  
3 committed to mental institutions post not guilty verdict due to insanity. Another case talks about a  
4 student's due process rights being violated when there was a school suspension absent a hearing.  
5 These factual scenarios are dissimilar and here defendant has had the opportunity to meaningfully  
6 contest the factual allegations considered in support of his pretrial detention.

7 Defendant then moves on to cite *United States v. Salerno*, 107 S. Ct 2095 (1987) but in  
8 *Salerno* the Supreme Court held that the Bail Reform Act authorization of pretrial detention on the  
9 basis of future dangerousness constituted permissible regulation that did not violate substantive due  
10 process, and was not impermissible punishment before trial and that the due process clause did not  
11 categorically prohibit pretrial detention imposed as a regulatory measure on the grounds of  
12 community danger, without regard to the duration of detention. The findings of *Salerno* do not  
13 support defendant's argument. Furthermore, in *Salerno*, the government's motion for pretrial  
14 detention was based on the ground that no condition of release would assure the safety of the  
15 community or any person. *Salerno* at 743. Here, defendant was detained both as a risk of  
16 nonappearance and danger to the community. Defendant then goes on to cite a number of cases  
17 from other Circuits and other districts all of which were decided prior to *Salerno*.

18 Defendant next argues that the Speedy Trial Act requires that he be released from pre-trial  
19 detention. The government submits the defendant presented no legal authority to support this  
20 contention. Rather defendant discussed the legislative history of the Bail Reform Act and the  
21 Speedy Trial Act. Defendant has not established a violation of his right to a Speedy Trial nor has he  
22 presented authority that his request for relief is supported under the Speedy Trial Act. The  
23 government detailed the procedural history specifically to show the Court that almost all of the time,  
24

1 for purposes of the Speedy Trial Act, has been tolled and or excluded through stipulations, motions,  
 2 attorney substitutions or most recently an appeal. The government calculated that approximately  
 3 fifty (50) days of the seventy (70) day time frame have run in terms of the Speedy Trial Act.  
 4 Additionally, as noted previously, the government submits it has not been the cause of the delay.

5 Defendant next argues that pretrial detention cannot be based solely on a finding of  
 6 dangerousness. Dkt. #289 at 10. The government submits that pre-trial services recommended  
 7 detention at both hearings arguing that there were no conditions or combination of conditions that  
 8 will reasonably assure the defendant's appearance as required and the safety of any other person and  
 9 the community. The government agreed with pre-trial services determination and argued for  
 10 detention on both those grounds at both hearings. The government submits defendant was detained  
 11 on both grounds.<sup>5</sup>

12 Defendant next argues the fifth, sixth, and eighth amendments hold that an accused should  
 13 not be punished before a conviction. Dkt. #289 at 11. This argument was previously addressed  
 14 when defendant cited to *Salerno*.<sup>6</sup> Here, defendant cites to cases that pre-date *Salerno* and begins to  
 15 intersperse other arguments regarding factors that are not relevant for purposes of his requested  
 16 relief, See Dkt. #289 at 12, and additional arguments where he cites to legal authority from other  
 17 Circuits and districts and does not indicate how they substantiate his request for relief.

18 Defendant's next argument is somewhat misplaced as his point regarding immigrants and  
 19

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20 <sup>5</sup> The government submits that the Court now has additional information gleaned at the most recent hearing held on  
 21 March 24, 2017. At the conclusion of that hearing Magistrate Judge Leen indicated the completion of the hearing but  
 22 defendant refused to be hand cuffed and physically resisted two United States Marshals. Defendant continued to yell out  
 23 various statements while his mother and stand by counsel raised their voices in return in attempts to have him comply  
 24 with the United States Marshals. Defendant continued to physically resist in an attempt to avoid being hand cuffed for a  
 few minutes. During the altercation defendant called the undersigned AUSA, who was standing near government  
 counsels table, a "punk ass bitch" and then stated her first and last name. The United States Marshals ultimately were  
 able to hand cuff and remove defendant from the courtroom after a struggle to control him. The government submits  
 these recent facts further weigh in favor of defendant's pre-trial detention.

<sup>6</sup> *Salerno* had an additional holding that the Bail Reform Act authorization of pretrial detention on the ground of future  
 dangerousness was not facially unconstitutional as violative of the Eighth amendment.

1 Americans having equal treatment in regards to bond hearings cites to case that deal with individuals  
 2 being held for immigration proceedings and are awaiting completion of removal proceeding. That is  
 3 not the case here.

4 The defendant's last argument is that the government is responsible for the delay in this case.  
 5 Dkt. #289 at 14. The government has mostly addressed this issue already. The government has  
 6 addressed the three motions to continue trial and how they did not in fact cause delay. The  
 7 government has addressed its timing and reasoning for filing an appeal. The government has  
 8 addressed defendant's extensive, piecemeal, and oftentimes repetitive motions filings. Defendant  
 9 however ignores the stipulations to continue trial and various filings where he requested additional  
 10 time to prepare for trial, have an attorney appointed, respond further to motions, file additional  
 11 motions, and have hearings.

12

13 **DEFENDANT'S ANTICIPATED SENTENCING GUIDELINES RANGE**

14 The government anticipates the defendant will have a base offense level of twenty-four (24).  
 15 The guideline for a violation of 18 U.S.C. § 922(g)(1) is USSG § 2K2.1. The base offense level is a  
 16 20, as the defendant committed the instant offense subsequent to sustaining a felony conviction for a  
 17 crime of violence (Battery with Substantial Bodily Harm in violation of NRS 200.481 – District  
 18 Court Clark County, Nevada - Case No. C273567). USSG § 2K2.1(a)(4)(A). The government  
 19 anticipates the defendant's base offense level will be increased four levels pursuant to USSG  
 20 § 2K2.1(b)(6)(B) because the defendant used or possessed a firearm in connection with another  
 21 felony offense. In this case, a firearm, containing the defendant's DNA, and to which he admitted  
 22 possession of post *Miranda* warnings in a statement to law enforcement<sup>7</sup>, was recovered from the

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24 <sup>7</sup> The government notes this admission was ordered suppressed by District Judge Gordon and is currently on appeal.

1 center console area of the car he was driving. Also recovered from the center console, on top of the  
 2 firearm were three baggies of marijuana (approximately 4.1 grams) and three baggies of  
 3 methamphetamine (approximately 1.2 grams).<sup>8</sup> The defendant was arrested and charged with  
 4 violations of NRS 202.360 (Own/possess a firearm by a prohibited person) and 453.337 (Possession  
 5 of a Controlled Substance with Intent to Sell – Marijuana and Methamphetamine).<sup>9</sup> If the defendant  
 6 were to receive reductions for acceptance of responsibility, there is the potential that his adjusted  
 7 offense level would be a twenty-one (21). USSG § 3E1.1(a) and (b). However, given the history  
 8 and current posture of this case the government does not anticipate said reductions applying.

9  
 10 In terms of criminal history category, the government anticipates the defendant will be a  
 11 category III. The government submits this is only an estimation made based on the information  
 12 obtainable via open source court websites a review of the pre-trial services report. The government  
 13 has included in its calculations the defendant's convictions as follows: Battery with substantial  
 14 bodily harm (class C felony - NV – 2012)<sup>10</sup>, driving under the influence (misdemeanor – NV –  
 15 2012)<sup>11</sup>, attempt pandering (gross misdemeanor – NV – 2009)<sup>12</sup>, attempt theft (gross misdemeanor –  
 16 NV – 2009)<sup>13</sup>, and battery domestic violence (misdemeanor – NV – 2009)<sup>14</sup>. The government  
 17 believes the defendant has additional convictions for obstruction of public official (misdemeanor –  
 18 NV – 2006), carry concealed weapon (misdemeanor – NV – 2007), disorderly conduct  
 19 (misdemeanor – NV – 2009), solicitation (misdemeanor – NV – 2009), and battery domestic

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20  
 21 However, the government submits that does not preclude the Court's consideration of said information/evidence at a  
 22 detention hearing.

23 <sup>8</sup> The narcotics field-tested positive for marijuana and methamphetamine.

24 <sup>9</sup> The facts contained herein are from reports and documents provided in discovery (BATES 001-135).

<sup>10</sup> USSG § 4A1.1(b) – 2 points

<sup>11</sup> USSG § 4A1.1(c) – 1 point

<sup>12</sup> USSG § 4A1.1(c) - 1 point (USSG 4A1.2 (a)(c)(1)(A))

<sup>13</sup> USSG § 4A1.1(c) – 1 point

<sup>14</sup> USSG § 4A1.1(c) – 1 point

1 violence (misdemeanor – NV – 2009) however the government does not believe those convictions  
2 will result in accruing additional criminal history points. The government anticipates the defendant  
3 will be at least a criminal history category III (based on having 6 criminal history points). With a  
4 total offense level of 24 and a criminal history category of III the sentencing guidelines range is 63 –  
5 78 months in custody. If the defendant were to receive the maximum three level reduction for  
6 acceptance of responsibility then the sentencing guidelines range would be 46 – 57 months in  
7 custody. The defendant has been in federal custody since February 24, 2015, a little over 25 months.  
8 The defendant has not been in custody for an amount of time that would constitute a time served  
9 sentence given the potential sentencing guidelines range as anticipated by the government.

10  
11 **CONCLUSION**

12 WHEREFORE, after consideration of the included facts, points, authorities, and arguments,  
13 the United States respectfully requests that this court deny Defendant's *Motion to Reconsider*.

14 DATED this 31<sup>st</sup> day of March 2017.

15  
16 Respectfully submitted,

17 DANIEL G. BOGDEN  
United States Attorney

18 /s/  
19 ALEXANDRA MICHAEL  
20 Assistant United States Attorney

21 **CERTIFICATE OF SERVICE**

22 I, Alexandra Michael, certify that the following individual was mailed a copy of the  
23 GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER sent out on or  
24

1 about this date by the below identified address:

2 Omar Qazi

3 NSDC 2190 East Mesquite Avenue Pahrump, Nevada, 89060

4 DATED: March 31, 2017

5

6 */s/*

7 ALEXANDRA MICHAEL  
Assistant United States Attorney

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